

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
\*\*\*\*\*

UNITED STATES OF AMERICA,

Petitioner,

v.

Civil Action No. ~~17-mc~~

5:17-mc-17 BKS/ATB

MARY E. LEONARD,

Respondent.

\*\*\*\*\*

**PETITION TO ENFORCE**  
**INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, Internal Revenue Service, by its attorney, GRANT C. JAQUITH, Acting United States Attorney for the Northern District of New York, THOMAS SPINA, JR., Assistant United States Attorney, of counsel, avers to this Court as follows:

I.

This is a proceeding brought pursuant to the provisions of 26 U.S.C. §§ 7602 and 7604(a), to judicially enforce an Internal Revenue Service summons.

II.

Michelle Duffek is a Revenue Officer of the Internal Revenue Service, who is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in 26 U.S.C. § 7602 and Treasury Regulations, § 301.7602-1, 26 C.F.R. § 301.7602-1.

III.

The Respondent, Mary E. Leonard, resides at 34 West Court Street, Cortland, New York 13045, and is within the jurisdiction of this Court.

IV.

On September 13, 2016, an Internal Revenue Service summons relevant to the years 2009-2015 was issued by Revenue Officer Duffek, directing Respondent, Mary E. Leonard, to appear before Revenue Officer Duffek on September 26, 2016 at 10:00 a.m., at 15 Henry Street, Binghamton, New York 13901, to testify and to produce for examination books, papers, records, or other data more fully described in the summons. Exhibit 1-A.

V.

On September 26, 2016, the respondent, Mary E. Leonard, failed to appear and comply with the summonses. The respondent's failure to comply with the summonses continues to date.

VI.

The books, papers, records or other data sought by the summonses are not in the possession of the Internal Revenue Service.

VII.

All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.

VIII.

It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to investigate the federal tax liability of Mary E. Leonard for the 2009-2015 tax years, as is evidenced by the Declaration of Revenue Officer Duffek, attached as Exhibit 1 and incorporated herein as part of this Petition.

IX.

The respondent, Mary E. Leonard, or her representative, is in possession and control of the

books, records, and other papers and documents or has knowledge relating to the above-described investigation.

X.

The respondent's failure to comply with the summonses continues to date.

XI.

It is the practice of this Court to proceed by Order to Show Cause in these matters.

XII.

If granted, the Order to Show Cause sought herein will be personally served upon the respondent/taxpayer pursuant to FED. R. CIV. P. 4 and 4.1. Thereafter, in order to expedite conclusion of this matter and minimize expenditure of time by the U.S. Marshals Service or other government personnel in connection with this matter, service of any further pleadings or papers filed by petitioner herein (not including any arrest order) in accordance with FED. R. CIV. P. 5 would be helpful and appropriate.

XIII.

No previous application has been made for the order or relief sought herein.

**WHEREFORE**, the petitioner, the United States of America, Internal Revenue Service, respectfully prays:

1. That the Court enter an Order directing the respondent, Mary E. Leonard, to show cause, if any, why she should not comply with and obey the aforementioned summons and each and every requirement thereof.

2. That the Court enter an Order directing the respondent, Mary E. Leonard, to obey the aforementioned summons and each and every requirement thereof by ordering the attendance,

testimony and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Duffek, or any other proper officer or employee of the Internal Revenue Service, at such time and place as may be fixed by the Revenue Officer, or any other proper officer or employee of the Internal Revenue Service.

3. That the Court enter an Order authorizing service and filing of other pleadings and papers herein (not including any arrest order) in accordance with FED. R. CIV. P. 5.

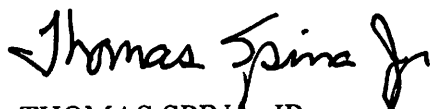
4. That the Court grant such other and further relief as is deemed just and proper.

Respectfully submitted,

Dated: September 11, 2017

GRANT C. JAQUITH  
Acting United States Attorney

By:



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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Petitioner

v.

Mary E Leonard

Respondent.

Civil Action No. 5:17-mc-17  
(BKS/ATB)

DECLARATION

MICHELLE DUFFEK declares, under penalty of perjury, pursuant to 28 U.S.C. section 1746, that the following statements are true except those made on information and belief and, as to those, I believe them to be true:

1. I am a duly commissioned revenue officer employed in the Small Business/Self-Employed Division North Atlantic Compliance Area of the Internal Revenue Service at IRS U S FEDERAL BLDG AND COURTHOUSE, 15 HENRY STREET, BINGHAMTON, NY 13901-.
2. In my capacity as a revenue officer I am conducting an investigation into the tax liability of MARY E LEONARD for Forms 1040 for the calendar year(s) ended: December 31, 2009; December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; December 31, 2014 and December 31, 2015. .
3. In furtherance of the above investigation and in accordance with Section 7602 of Title 26, U.S.C., I issued on 08/31/2016, an administrative summons, Internal Revenue Service Form 6638, to Mary E Leonard, to give testimony and to produce for

examination books, papers, records, or other data as described in said summons. The summons is attached to the petition as Exhibit A.

4. In accordance with Section 7603 of Title 26, U.S.C., on 09/13/2016, I served an attested copy of the Internal Revenue Service summons described in Paragraph (3) above on the respondent, Mary E Leonard, by leaving a copy at last and usual place of abode, as evidenced in the certificate of service on the reverse side of the summons.

5 On 10/11/2016, Counsel issued 2N56 letter requiring Mary E Leonard to appear on November 1, 2016 at 09:00 AM. Mary E Leonard did not appear nor was the requested information submitted.

6. On 09/26/2016, the respondent Mary E Leonard, did not appear in response to summons. The respondent's refusal to comply with the summons continues to the date of this declaration.

7. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

8. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

9. It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to properly investigate the federal tax liability of MARY E LEONARD for Forms 1040 for the calendar year(s) ended December 31, 2009; December 31, 2010; December 31, 2011; December 31, 2012; December 31, 2013; December 31, 2014 and December 31, 2015.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7<sup>th</sup> day of November, 2016.

Michelle Duffek  
MICHELLE DUFFEK,  
REVENUE OFFICER



# Summons

## Income Tax Return



In the matter of MARY E LEONARD 34 W COURT ST CORTLAND NY 13045

Internal Revenue Service (Identify Division) Small Business / Self Employed

Industry/Area (Identify by number or name) Small Business / Self Employed

Periods: See Attachment 1 to Summons Form 6638 for Period Information

The Commissioner of Internal Revenue

To: MARY E LEONARD

At: 34 W COURT ST CORTLAND NY 13045

You are hereby summoned and required to appear before MICHELLE DUFFEK, an Internal Revenue Service (IRS) officer, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years: 2009, 2010, 2011, 2012, 2013, 2014 & 2015

These records and documents include, but are not limited to: Forms W-2 (Wage and Tax Statement), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return: 2009, 2010, 2011, 2012, 2013, 2014 & 2015

We have attached a blank return to guide you in producing the necessary documents and records.

**Do not write in this space**

Business address and telephone number of IRS officer before whom you are to appear:

IRS U S FEDERAL BLDG AND COURTHOUSE, 15 HENRY STREET, BINGHAMTON, NY 13901- (607)621-4250

Place and time for appearance: At IRS U S FEDERAL BLDG AND COURTHOUSE, 15 HENRY STREET, BINGHAMTON, NY 13901-



on the 26th day of September, 2016 at 10:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 31st day of August, 2016

Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

Form 6638 (Rev.10-2010)  
Catalog Number 61828W

Michelle Duffek  
MICHELLE DUFFEK

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title

Original – to be kept by IRS





# Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

9/13/16

Time

1:00 pm

How

☐

I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was

☒

I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any):

Served

Signature

Michelle Duffek

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Michelle Duffek

Title

Revenue Officer

**Attachment 1 to Summons Form 6638**

In the matter of MARY E LEONARD

Period information: DECEMBER 31, 2009; DECEMBER 31, 2010; DECEMBER 31, 2011; DECEMBER 31, 2012; DECEMBER 31, 2013; DECEMBER 31, 2014 AND DECEMBER 31, 2015